

(c) *Comments.* Once SBA has published a notice in the FEDERAL REGISTER, it will afford a period of not less than 60 days for public comment.

(d) *Decision.* SBA will render its decision after the close of the comment period. If it decides against a change, it will publish notice of its decision in the FEDERAL REGISTER. Concurrent with the notice, SBA will advise the requester of its decision in writing. If it decides in favor of a change, SBA will propose an appropriate change to this part in accordance with proper rule-making procedures.

Subpart H—Protests

§ 126.800 Who may protest the status of a qualified HUBZone SBC?

(a) *For sole source procurements.* SBA or the contracting officer may protest the proposed awardee's qualified HUBZone SBC status.

(b) *For all other procurements.* Any interested party may protest the apparent successful offeror's qualified HUBZone SBC status.

§ 126.801 How does one file a HUBZone status protest?

(a) *General.* The protest procedures described in this part are separate from those governing size protests and appeals. All protests relating to whether a qualified HUBZone SBC is a "small" business for purposes of any Federal program are subject to part 121 of this title and must be filed in accordance with that part. If a protester protests both the size of the HUBZone SBC and whether the concern meets the HUBZone qualifying requirements set forth in § 126.200, SBA will process each protest concurrently, under the procedures set forth in part 121 of this title and this part.

(b) *Format.* Protests must be in writing and state all specific grounds for the protest. A protest merely asserting that the protested concern is not a qualified HUBZone SBC, without setting forth specific facts or allegations, is insufficient.

(c) *Filing.* (1) An interested party other than a contracting officer or SBA must submit its written protest to the contracting officer.

(2) A contracting officer and SBA must submit their protest to the AA/HUB.

(3) Protestors may deliver their protests in person, by facsimile, by express delivery service, or by U.S. mail (postmarked within the applicable time period).

(d) *Timeliness.* (1) An interested party must submit its protest by close of business on the fifth business day after bid opening (in sealed bid acquisitions) or by close of business on the fifth business day after notification by the contracting officer of the apparent successful offeror (in negotiated acquisitions).

(2) Any protest received after the time limits is untimely.

(3) Any protest received prior to bid opening or notification of intended award, whichever applies, is premature.

(e) *Referral to SBA.* The contracting officer must forward to SBA any non-premature protest received, notwithstanding whether he or she believes it is sufficiently specific or timely. The contracting officer must send protests to AA/HUB, U.S. Small Business Administration, 409 3rd Street, SW, Washington, DC 20416.

§ 126.802 Who decides a HUBZone status protest?

The AA/HUB or designee will determine whether the concern has qualified HUBZone status.

§ 126.803 How will SBA process a HUBZone status protest?

(a) *Notice of receipt of protest.* (1) SBA immediately will notify the contracting officer and the protestor of the date SBA receives a protest and whether SBA will process the protest or dismiss it in accordance with § 126.804.

(2) If SBA determines the protest is timely and sufficiently specific, SBA will notify the protested HUBZone SBC of the protest and the identity of the protestor. The protested HUBZone SBC may submit information responsive to the protest within 5 business days.

(b) *Time period for determination.* (1) SBA will determine the HUBZone status of the protested HUBZone SBC within 15 business days after receipt of a protest.